

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

VALLEY FORCE INSURANCE
COMPANY,

Case No.: 1:14-cv-792

Plaintiffs,

Judge Michael R. Barrett

v.

FISHER KLOSTERMAN, INC.,

Defendant.

ORDER

This matter is before the Court on Plaintiff Valley Forge Insurance Company's Motion for Extension of Time to Amend Rule 26(f) Report (Doc. 47). Defendant Fisher Klosterman, Inc. has filed a response in opposition (Doc. 47) and Plaintiff Valley Forge has filed a reply (Doc. 49).

Valley Forge moved for an extension of the deadline to amend the Complaint and requested a conference with the Court to reset the deadlines in the case. (Doc. 47). FKI opposed the motion arguing that it would be futile to allow such an amendment. (Doc. 48). FKI did not oppose an extension of other deadlines in the action, however, provided discovery remained stayed until decisions were rendered on the pending motions. (Id.). Valley Forge replies that FKI's argument concerning futility is premature, as it did not request leave to amend the Complaint, but merely an extension of the deadline for doing so. (Doc. 49). Valley Forge further argues that its amendment would not be futile and that FKI will not suffer prejudice from extending the deadline. (Id.).

The Court agrees with Valley Forge that the requested extensions are warranted. The Court recently held a conference with counsel for the parties in which several new deadlines for

discovery and dispositive motions were established, and those deadlines now remain in effect. As for the requested extension of the deadline for seeking leave to amend the complaint, this case has a contentious history, including several discovery disputes, discovery stays, and numerous pending motions filed by both parties, that has resulted in a delay in proceedings. While FKI may oppose a motion for leave to amend the complaint later made on the basis of futility, such an analysis is not necessary to grant the requested extension of the deadline to file such a motion. The deadline for filing a motion for leave to amend the complaint therefore is extended up through May 1, 2016. Valley Forge's recently filed motion for leave to file an amended complaint is deemed filed in accordance with the Court's deadlines. Nonetheless, the motion for leave to amend the complaint will not be decided until the multiple pending dispositive motions, which were vigorously briefed in the past year, are decided on the merits so as to preclude any previously filed motions from being deemed moot as a result of any requested amendment.

IT IS SO ORDERED.

s/Michael R. Barrett
JUDGE MICHAEL R. BARRETT
UNITED STATES DISTRICT COURT